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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,958	01/29/2004	Hiroshi Takeuchi	MIT-024-USA-P	2329
27955	7590	06/28/2007		
TOWNSEND & BANTA c/o PORTFOLIO IP PO BOX 52050 MINNEAPOLIS, MN 55402			EXAMINER REESE, DAVID C	
			ART UNIT 3677	PAPER NUMBER
			MAIL DATE 06/28/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/765,958	<b>Applicant(s)</b> TAKEUCHI, HIROSHI	
	<b>Examiner</b> David C. Reese	<b>Art Unit</b> 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-7 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

THIS FINAL ACTION IS RESPONSIVE TO THE AMENDMENT FILED 4/2/2007.

- Claims 4 and 9-13 are canceled.
- Claims 1-3 and 6-8 were amended.
- Claims 1-3 and 6-8 are pending.

#### *Claim Rejections - 35 USC § 102*

[1] The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

[2] Claims 1-3 and 5-7 are rejected under 35 U.S.C. 102(b) as clearly anticipated by SHIRAI US 5,388,290, because the invention was patented or described in a printed publication in this or a foreign country, or in public use or on sale in this country more than one (1) year prior to the application for patent in the United States.

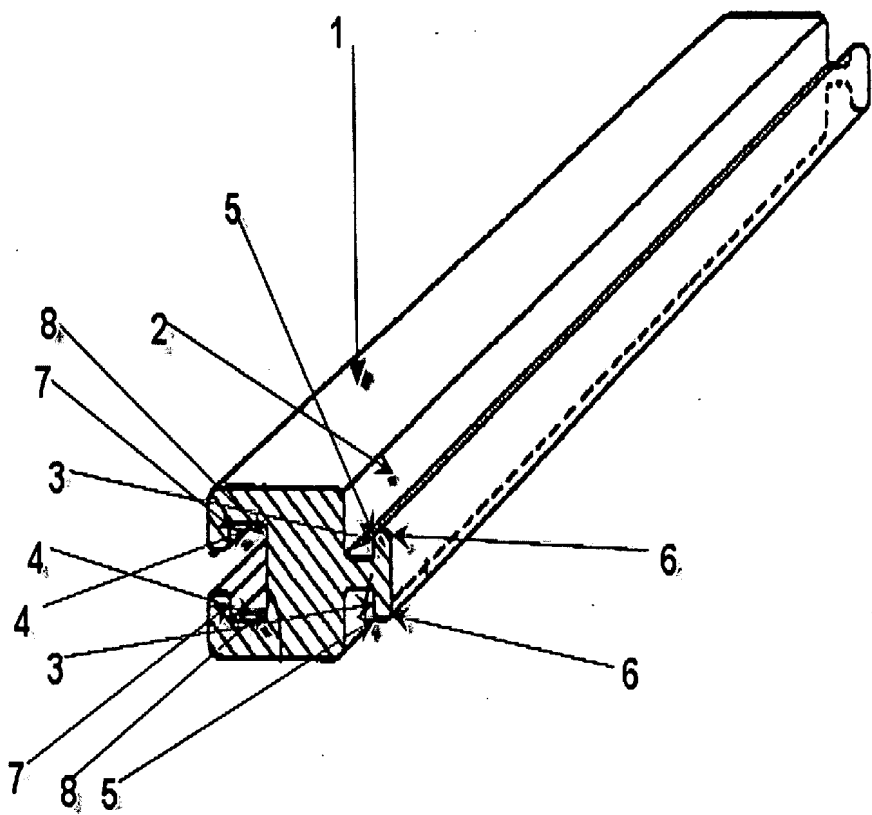
The shape and appearance of SHIRAI is identical in all material respects to that of the claimed design, *Hupp v. Siroflex of America Inc.*, 122 F.3d 1456, 43 USPQ2d 1887 (Fed. Cir. 1997).

As for Claim 1, SHIRAI discloses of a bendable bottom member of a bed (see figure on the next page) comprising:

a plurality of side-by-side bars (1) bendably connected with each other allowing the whole extent of the connected bars to be shortened, extended, and curved (Fig. 2), said bars (1) being disposed generally perpendicular to the longitudinal axis of the bed, one of every adjacent two of the bars (1) being provided on one face (2) of the bar (1) with a plurality of longitudinal connecting protrusions (3) extending generally parallel to the longitudinal axis of the bed, while a plurality of recesses (4) for accepting the respective connective protrusions (3) are formed in a corresponding face of an adjacent bar (1), said recesses (4) having an approximate rectangular cross-section taken in a direction perpendicular to the longitudinal axis of the bed, said recesses (4) having right and left lateral walls and top (7) and bottom (8) walls are formed in adjacent bars (1) for accepting protrusions (3) extending from an adjacent bar (1), said protrusions (3) having an approximate rectangular cross-section taken in a direction perpendicular to the longitudinal axis of the bed, and an elongated generally rectangular cross-section tapered at its tip on a bottom face thereof taken in a direction parallel to the longitudinal axis of the bed, said protrusions (3) having faces corresponding in configuration to the walls of said recesses (4) into which the protrusions (3) engage, said recesses accommodating the insertion in a direction parallel to the longitudinal axis of the bed of protrusions therein in sliding engagement therewith in a direction parallel to the longitudinal axis of the bed so that top (7) and bottom (8) walls of

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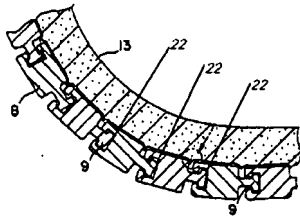
each of the recesses (4) contact a top (4) and bottom (6) face of a corresponding protrusion (3) inserted therein (Fig. 7A), said protrusions (3) having at tips and bases thereof first and second beveled portions, said first beveled portion being formed on a bottom (6) face of each protrusion (3) at its tip and said second beveled portion being formed on a top face (5) of each protrusion (3) at its base, said first and second beveled portions forming clearances between the protrusions (3) and corresponding faces of the recesses (4) to allow the connecting bars (1) to be bent a preset distance in one direction only (Fig. 7A), so that adjacent bars (1) can be adjusted in their intervals (each distance between bars can be different due to the diameter of the recess, 4, and also from col. 3, beginning with line 38, "...the bottom structure contain the bottom strips can be bent and also adjusted in length in the longitudinal direction of the bed") and can be rotated in one direction up to a predetermined angle, and disengagement preventing (ends of 9) means comprising hooks formed at a tip of some of the connecting protrusions (3), and corresponding accepting recesses (4) having steps therein adapted to engage the hooks, so that the hooks and steps are engaged with each other when the respective adjacent bars (1) are kept furthest away from each other (Fig. 7A), whereby said adjacent bars (1) being adjustable in gaps between adjacent bars (1) (col. 3, beginning with line 38, "...the bottom structure contain the bottom strips can be bent and also adjusted in length in the longitudinal direction of the bed"), said bars (1) being connected with each other in such a manner that they can be curved as a whole up to a limited predetermined angle in one direction only (Figs. 2, 7A).



Re: Claim 2, wherein a bar (1) disposed at an end of the bendable bottom member on one side has only accepting recesses (4).

Re: Claim 3, wherein the first beveled portions are formed on lower sides at the tips of the connecting protrusions (3) and the second beveled portions are formed on the upper sides at the bases of protrusions (3), said protrusions (3) being beveled sufficiently to use the bars (1) as a bottom member in a bendable portion between the back region and the waist region.

Re: claim 5, wherein the second beveled portions at the bases of the connecting protrusions (3) are inclined in adaptation to the desired bending angles with the adjacent bars (1) (Fig. 7A) (see figure below).



Re: Claim 6, wherein hooks formed at tips of connecting protrusions (3) are provided with the disengagement preventing means while steps to be engaged with the hooks are formed in the corresponding accepting recesses (4).

Re: Claim 7, wherein the second beveled portions at the bases of the connecting protrusions (3) are inclined in adaptation to the desired bending angles with the adjacent bars (1) (Fig. 7A).

***Allowable Subject Matter***

[3] Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As for Claims 8, the prior art, incorporating other corresponding limitations as set forth above, does not teach of a gap being formed between every adjacent two connecting protrusions.

***Response to Arguments***

[4] Applicant's arguments filed 4/2/2007 regarding rejections under 35 U.S.C. 102 have been fully considered but they are not persuasive. In the instant case, the examiner maintains that the prior art of Shirai still anticipates that of the current, amended claim listing as shown and disclosed above by the updated figure and reference numerals. Applicant is reminded that claims in a pending application should be given their broadest reasonable interpretation. *In re Pearson*, 181 USPQ 641 (CCPA 1974), and that things clearly shown in reference patent drawings qualify as prior art features, even though unexplained by the specification. *In re Mraz*, 173 USPQ 25 (CCPA 1972). It is the claims that define the claimed invention, and it is claims, not specifications that are anticipated or unpatentable. *Constant v. Advanced Micro-Devices Inc.*, 7 USPQ2d 1064.



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*Conclusion*

[5] Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


[6] Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Reese whose telephone number is (571) 272-7082. The examiner can normally be reached on 7:30 am-6:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached at (571) 272-7075. The fax number for the organization where this application or proceeding is assigned is the following: (571) 273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DCR

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6/20/07



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